

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7066 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJARAT MAZDOOR SABHA

Versus

STATE OF GUJARAT

Appearance:

MR NR SHAHANI for Petitioner

MR YH VYAS for Respondents No.1, 3

None present for other Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 02/12/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. From the perusal of the special civil application it appears to be a dispute in between the two rival unions of the workers.

3. The petitioner, Gujarat Mazdoor Sabha, has come

up with a case that an attempt of the respondent No.3, Cadmach Machinery Co. Pvt. Ltd., to enter into the settlement with minority union, the respondent No.4, Cadmach Workers' Union, is wholly arbitrary and unjustified. The workers are being asked to sign an undertaking by 17th October, 1988, and are being offered Rs.2340/- as lump-sum arrears arising from the settlement on the next day. They are further required to sign an undertaking declaring that they have authorised the deduction of Rs.340/- from the aforesaid amount in favour of the respondent No.4. The petitioner made a complaint, against this action, which is stated to be an unfair labour practice, to the respondent No.2 but no action appears to have been taken on the complaint.

4. Prayer has been made by the petitioner for direction to the respondent No.2 to investigate the complaint filed by the petitioner-Union and further directing it to prosecute the respondent-Company. Further prayer has been made for direction to produce the so-called settlement for examination of the contents by the petitioner-Union and further be pleased to restrain the respondent-Company and the Union-respondent No.4 from enforcing the condition that the members of the petitioner-Union gave an undertaking to the effect that they are the members of the Cadmach Workers' Union and restraining the respondent-Company from deducting the sum of Rs.340/- from the arrears that may accrue under the so-called settlement.

5. Prayer has been made for interim relief also. This Court has granted interim relief in favour of the petitioner in terms, which read as under:

Mr.H.B. Shah waives notice and appears on behalf of respondent No.4.

For the present we are limiting our consideration to one term in the fresh agreement entered into between the Company and respondent No.4 Union on October 1, 1988 which reads as under:

"The workers accepting the all above terms and conditions of this settlement and signing the prescribed form hereby authorise the management to deduct Union Contribution of Rs.340/- from the ad hoc payment payable under Item No.23 (21 is a mistake) of this settlement and pay the amount to the Cadmach Workers' Union."

The form, Annexure-I to the settlement, which each worker is required to sign also authorises the management to deduct Rs.340/- as Union Contribution for Cadmach Workers' Union as per Item No.23 of the settlement and permits the Company to give the said amount to the said Union.

By way of an interim order we direct that the aforesaid term shall be implemented in the case of members of the petitioner-Union with the modification that the amount of Rs.340/- deducted from the ad hoc payment to be paid to the employee under Item No.23 will be deposited in this Court subject to further orders of this Court. In the form which the employee will be required to sign, the words "for Cadmach Workers' Union as per the Item No.23 of this settlement and to give it to the Cadmach Workers' Union" will stand deleted and instead it will be stated that "The contribution so deducted will be deposited in the High Court in Special Civil Application No.7066 of 1988 and will be subject to the orders of the High Court". Mr. Trivedi makes a grievance that the members of the petitioner-Union are not cooperating with the result that the production suffers. We do hope that the employees receiving benefits under the settlement of October 1, 1988 will discharge their duties with devotion and dedication and without causing any hindrance which would affect production.

6. In pursuance of the said order of this Court, the amount has been deposited by the respondent No.3 before this Court and the same was ordered to be kept in F.D.R. and lying deposit in F.D.R.. The F.D.R. has matured on 19th July, 1997 and it was ordered to be extended for one year. The settlement has been produced on the record of this special civil application and the dispute only pertains to the term "Union Deduction" which reads as under:

Union Deduction:

The workers accepting the all above terms and conditions of this settlement and signing the prescribed form hereby authorise the management to deduct Union Contribution of Rs.340/- from the adhoc payment payable under Item No.21 of this

settlement and pay the amount to the Cadmach Workers' Union.

7. The dispute is in between two rival unions and this Court cannot be made a platform for redressal of this dispute. The petitioner admittedly has already filed a complaint before the respondent No.2, which is stated to be pending. The petitioner should have proceeded with the complaint before the said authority and the grievance to the extent that the said complaint was not investigated and no action has been taken by the respondent No.2 may taken to have some substance. Still, in the matter of this nature only remedy to the Union is to approach to the redressal forum provided under the Industrial Disputes Act, 1947. So this writ petition cannot be entertained.

8. However, the respondent No.2 is directed to investigate and take necessary action on the complaint of the petitioner which is stated to be pending before it after hearing all the parties concerned. In case ultimately the petitioner is not satisfied with the decision taken by the respondent No.2 on its complaint then it is free to raise an industrial dispute.

9. The learned counsel for the petitioner prayed that the amount which is lying deposited before this Court may be ordered to be sent to the office of respondent No.2 or it may be given to the petitioner for disbursing of the same to the respective workman. I find no substance in this contention of the learned counsel for the petitioner. This amount is ordered to be deposit deposit in F.D.R. with this Court. However, liberty is granted to individual workers to apply for getting the amount by filing a note for passing necessary orders for disbursement of the amount to the extent of their entitlement. The special civil application and rule stand disposed of in the aforesaid terms with no order as to costs.

zgs/-